UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TROY ALEXANDER, *et al.*,

Plaintiffs,

v.

CITY OF FLINT, *et al.*,

Defendants.

Case No. 5:16-cv-13421

Hon. John Corbett O'Meara

Magistrate Judge Mona K. Majzoub

____/

BRADLEY WURFEL'S EX PARTE MOTION FOR LEAVE TO FILE EXCESS PAGES

Defendant Bradley Wurfel, through his counsel, Clark Hill PLC, hereby moves this Court pursuant to E.D. Mich. L.R. 7.1(d)(3) for entry of an order granting leave to file a Brief in Support of his Motion to Dismiss Plaintiffs' Second Amended Complaint and Jury Demand ("Amended Complaint") in excess of the 25-page limit.

More specifically, Mr. Wurfel seeks leave to exceed that page limit by up to 10 pages, because Plaintiffs' Amended Complaint includes more than 400 paragraphs of allegations, names 15 Defendants, asserts 10 different causes of action under both federal and state law against Mr. Wurfel (including several causes of action not brought against Mr. Wurfel in any other action before this

Court), and raises novel and complex legal issues of significant public importance. Mr. Wurfel is cognizant of the burden placed on the Court by increased briefing, and intends to brief the issues as efficiently as possible.

Respectfully submitted,

Clark Hill PLC

By: *s/ Michael J. Pattwell*

Michael J. Pattwell (P72419)
Jay M. Berger (P57663)
Jordan S. Bolton (P66309)
Christopher B. Clare (39582)
500 Woodward Ave., Ste. 3500
Detroit, MI 48226-3435
(313) 965-8300
mpattwell@clarkhill.com
Counsel for Bradley Wurfel

Dated: April 17, 2017

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BRIEF IN SUPPORT OF BRADLEY WURFEL'S EX PARTE MOTION FOR LEAVE TO FILE EXCESS PAGES

Defendant Wurfel intends to respond to the Plaintiffs' Second Amended Complaint and Jury Demand ("Amended Complaint") with a motion to dismiss under Fed. R. Civ. P. 12(b). The Amended Complaint includes more than 400 paragraphs of allegations, names 15 Defendants, asserts 10 different causes of action under both federal and state law against Defendant Wurfel (including several causes of action not brought against Mr. Wurfel in any other action before this Court), and raises novel and complex issues of significant public importance for all parties involved.

The claims brought against Mr. Wurfel include:

- cost recovery under the federal Comprehensive Environmental Response, Compensation, and Liability Act;

- a substantive due process claim;
- refusing or neglecting to prevent;
- conspiracy;
- gross negligence;
- intentional infliction of emotional distress;
- assault;
- battery
- common law fraud; and
- fraud by nondisclosure (silent fraud).

The various grounds on which Mr. Wurfel will move for dismissal of these claims include:

- a failure to satisfy the pleading requirements of Fed. R. Civ. P. 8;
- statutory preemption;
- statutory and common law immunity;
- the absence of a Constitutional right to safe drinking water;
- Plaintiffs' failure to adequately plead their claims against Mr. Wurfel; and
- absolute and qualified privilege.

The nature of these numerous claims and the large number of complex issues to be briefed require more than 25 pages of briefing, and Defendant Wurfel therefore requests leave to submit a brief up to 35 pages in length. Even with this extension, Defendant Wurfel's brief will be concise, and will focus only on legal and other issues Plaintiffs raise in their Amended Complaint.

Defendant Wurfel would not oppose the same 10-page extension for Plaintiffs' Response Brief. The additional pages in support of and in response to the intended Motion to Dismiss would allow the parties to fully brief the Court on all the issues presented.

WHEREFORE, Defendant Wurfel respectfully requests that this Honorable Court (a) grant his Motion for Leave to File Excess Pages; (b) permit Defendant Wurfel leave to file a Brief in Support of his Motion to Dismiss of no more than 35 pages; and (c) grant Defendant Wurfel any such further or different relief this Court finds just and equitable.

Respectfully submitted,

Clark Hill PLC

By: *s/ Michael J. Pattwell*

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Christopher B. Clare (39582)
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mpattwell@clarkhill.com
Counsel for Bradley Wurfel

Dated: April 17, 2017

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2017, I electronically filed the above with the Clerk of Court using the CM/ECF System, which will provide electronic copies to counsel of record.

s/ Christopher B. Clare